

STATE OF MICHIGAN
COURT OF APPEALS

TIM DARRAH, Personal Representative of the Estate
of JUNE VIVIAN DARRAH, Deceased,

UNPUBLISHED
February 9, 1999

Plaintiff-Appellee,

v

No. 202585
Kent Circuit Court
LC No. 95-000428 NI

MICHAEL WILLIAM BLASSINGAME, JR.,

Defendant-Appellant.

Before: Whitbeck, P.J., and Cavanagh and Neff, JJ.

MEMORANDUM.

Defendant appeals as of right the order of default entered against him in this third-party automobile liability case. The order of default resolved all issues other than damages in favor of plaintiff. Following a trial, plaintiff was awarded damages of \$10,000. We reverse and remand for a new trial.

Defendant contends that the trial court was without authority to enter a default for his insurance carrier's refusal to make an offer to settle. This Court has recently resolved this question in favor of defendant. See *Henry v Prusak*, 229 Mich App 162; 582 NW2d 193 (1998). In *Henry*, this Court held that the court rules do not authorize entry of default against a nonparty defendant solely on the basis of a nonparty insurance carrier's refusal to make a settlement offer. See *id.* at 170. A court cannot "force" settlement on parties. *Id.* Accordingly, we reverse and remand for a new trial on all issues not resolved by stipulation.

Reversed and remanded for a new trial. We do not retain jurisdiction.

/s/ William C. Whitbeck
/s/ Mark J. Cavanagh
/s/ Janet T. Neff